

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:01CR57-MU

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
WAYNE ACHILLE McALLISTER,)
)
Defendant.)
)

ORDER

THIS MATTER is before the Court upon the Defendant's Motion to Proceed on Appeal In Forma Pauperis, filed April 25, 2005.

Federal law requires that a defendant filing a notice of appeal must pay a filing fee in the amount of two-hundred and fifty-five dollars (\$255.00), plus service fees and other costs. In his Motion to Proceed In Forma Pauperis, Defendant argued that because an Audita Querela motion is not a pure civil action it should not fall under the purview of the Prison Litigation Reform Act. This Court agreed and ordered Defendant to provide the Court with a copy of his trust account statement.

A review of Defendant's trust account statement reveals that he has received \$ 1, 875.28 in deposits over the last six months. Based upon this information, the Court concludes that Defendant has the resources to pay the filing fee at issue.

IT IS THEREFORE ORDERED that:

1. Defendant's Motion to Proceed In Forma Pauperis is **DENIED**;
2. Defendant shall pay the full filing fee within twenty days of this Order.

Signed: June 13, 2005



Graham C. Mullen
Chief United States District Judge

